

COMPETENCY TO STAND TRIAL: A SYSTEMATIC EVALUATION AND  
VALIDATION OF THE GCCT, MACCAT-CA, AND ECST  
AS COMPETENCY MEASURES

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Competency to stand trial cases constitute the largest percentage of forensic referrals for clinical psychologists. Furthermore, research suggests that the use of forensic measures facilitates the decisions of competency made by forensic examiners. This study investigated the construct validity of three competency measures: (a) the GCCT-MSH, (b) the MacCAT-CA, and (c) the ECST with 100 adult males incarcerated at the Tarrant County Jail in Fort Worth, TX. Construct validity was investigated via the use of a multitrait-multimethod research design for the three-prong conceptualization of the *Dusky* standard. Results indicated that current competency measures do an adequate job of assessing for factual understanding, but lack construct validity for two prongs: rational understanding and the ability to consult with counsel. In addition, the atypical presentation scales of the both GCCT and the ECST performed well at screening individuals for feigning. Finally, prediction of competency from clinical variables was also investigated. Psychotic symptoms and overall impairment were the strongest predictors of incompetency.

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## CHAPTER 1

### INTRODUCTION

The issue of competency to stand trial has been called "the most significant mental health inquiry pursued in the system of criminal law" (Stone, 1975, p. 200). One reason for its importance is the historically large numbers of defendants that are referred annually for competency evaluations. For example, in 1978 a total of 20,143 mentally disordered offenders were admitted to state and federal forensic institutions in the United States. More than 6,000 of these mentally disordered defendants were deemed incompetent to stand trial with the census indicating that 3,400 incompetent offenders were incarcerated on an average day (Steadman, Monahan, Hartstone, Davis, & Robbins, 1982).

The number of competency referrals has increased steadily over the past few decades. Although defense attorneys question their client's competency in only 8%-15% of felony cases (Hoge, Bonnie, Poythress, & Monahan, 1992), the rise in criminal cases in the United States has led to an increase in competency referrals. In 1982, there was an estimated 25,000 annual referrals for competency evaluations (Steadman et al., 1982). By 1998, this number had doubled with an estimated 50,000 annual referrals for competency evaluations in the United States (Skeem, Golding, Cohn, & Berge, 1998).

Competency evaluations have profound significance because of their influence on court decisions and the far-ranging consequences for the defendant. Approximately



25% to 30% of competency referrals result in adjudication of "incompetent to proceed" and commitment to psychiatric hospitals for treatment to restore competence (Roesch & Golding, 1980). The influence of competency evaluations is magnified because criminal courts rarely disagree with the competency recommendations of mental health professionals (Reich & Tookey, 1986). Research has indicated that judges typically defer to the opinions of the examiner with concordance rates often exceeding 90% (Hart & Hare, 1992; Reich & Tookey, 1986; Williams & Miller, 1981).

The field of forensic psychology has grown exponentially in recent decades and has had a profound effect on both the practice of clinical psychology and the evaluations of mentally disordered defendants (Skeem & Golding, 1998). As the number of competency referrals has increased, so has the need for clinical psychologists who specialize in forensic assessment and are knowledgeable of the legal standard for competency to stand trial. Grisso (1996) has expressed concern that psychologists lacking specialized training in forensic psychology may depreciate the quality of court-ordered evaluations in criminal cases. It is this concern that underlies the need to maintain strict adherence to the legal standards within forensic practice.

### The Legal Framework

Early in the practice of forensic psychology, legal and mental health professionals often confused competency to stand trial with determinations of criminal responsibility. Hess and Thomas (1963) examined the records of individuals at Ionia State Hospital, the majority of whom were committed as incompetent to stand trial. Their results indicated that the psychiatrists confused the legal standards for competency with insanity in the vast majority of cases. Moreover, the reports lacked

clarity and substantiation. Although it was the responsibility of the psychiatrist to "offer a scientific description of the individual to the court in a meaningful and serviceable fashion with clear-cut substantiation of his conclusions, [they found that] the majority of the psychiatrists' reports were empty and meaningless" (Hess & Thomas, pp. 715-716). The "meaningless" nature of the reports studied was a direct result of the lack of a substantive standard for competency to stand trial prior to 1960.

#### The Substantive Standard

*Dusky v. United States* (1960) led to the development of an important change in the standard approach towards competency evaluations by providing mental health professionals with a substantive standard on which to base their decisions. The *Dusky* standard articulated the following:

Test of defendant's competency to stand trial is whether he has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and whether he has rational as well as factual understanding of the proceedings against him and it is not enough that he is oriented to time and place and has some recollection of events (*Dusky v. United States*, 1960, p. 788).

Two cases subsequent to *Dusky v. United States* (1960) added procedural safeguards to the standard for competency to stand trial. In *Pate v. Robinson* (1966), the Supreme Court ruled that failure to provide the defendant with a hearing to determine competency, when sufficient evidence suggested the need, is a violation of the defendant's 6th amendment right to a fair trial. In 1974, the Court ruled in *Drope v. Missouri* that competence at the beginning of a hearing is not necessarily indicative of competence throughout the legal proceedings. Furthermore, the Court specified what

evidence was relevant to whether a hearing of competency is warranted; this evidence included a defendant's irrational behavior, demeanor at trial, and expert's prior medical opinion (*Drope v. Missouri*, 1974).

The trilogy of *Dusky*, *Pate*, and *Drope* upheld the criteria first established in *Dusky* as the legal standard for evaluating competency to stand trial (Bonnie, 1993). Furthermore, subsequent cases regarding procedural protections have continued to support this legal standard as the basis for competency evaluation. In *Godinez v. Moran* (1993), the Supreme Court specified further the legal proceedings as they applied to competency to stand trial. The additional safeguards were twofold: (a) the defendant's decision-making abilities are encompassed within the construct of competency to stand trial, and (b) a defendant's trial competence and competence to plead guilty should be assessed under a single standard. With reference to *pro se* representation, Justice Thomas noted:

the focus of the competency inquiry is the defendant's mental capacity; the question is whether he has the ability to understand the proceeding. By contrast, the purpose of the "knowing and voluntary" inquiry is to determine whether the defendant actually does understand the significance and consequences of a particular decision and whether the decision is uncoerced (p. 2687).

In summary, the bar against trying an incompetent defendant was first established in *Dusky v. United States* (1960). Subsequent cases have continued to support and refine the legal proceedings concerning the *Dusky* standard.

#### Conceptualizations of the *Dusky* Standard

Having stood the test of time, the *Dusky* standard is the basis for determining

competency in the United States. Legal scholars and clinical researchers however, continue to differ in their conceptualizations of the *Dusky* standard. The basis of the differing models is whether the standard is two or three dimensions (Rogers, Grandjean, Tillbrook, Vitacco, & Sewell, in press).

Several scholars (Melton, Petrila, Poythress, & Slobogin, 1997; Shuman, 1996) conceptualize *Dusky v. United States* (1960) as a two prong standard. This conceptualization stems from a syntactical analysis of *Dusky* and the placement of a hyphen in the key sentence: "...test must be whether he has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding - and whether he has a rational as well as factual understanding of the proceedings against him." . Specifically, the court's placement of a hyphen separates the defendant's ability to consult with counsel from his/her factual and rational understandings of the proceedings. A limitation of this conceptualization is that the *Dusky* standard should be conceptualized as specific elements that represent discrete abilities (Grisso, 1986). Combining factual understanding with rational understanding unnecessarily complicates this conceptualization and the assessment of discrete capacities.

The three dimensional conceptualization of the *Dusky* standard provided by legal scholars (American Bar Association, 1989) centers on a supplemental standard established by *Drope v. Missouri*. Specifically, a defendant's ability to "otherwise assist with [their] defense" was added to the previously mentioned two prong conceptualization resulting in a three prong standard: the defendant must be able to (a) consult with the defense counsel, (b) otherwise assist with the defense, and (c) have

both a rational and factual understanding of the proceedings. However, it should be noted that *Drope v. Missouri* and the supplemental “otherwise assist in [their] defense” prong has been criticized as not playing an instrumental role in competency to stand trial evaluations (Melton et al., 1997).

Clinical researchers (Otto et al., 1998; Rogers & Grandjean, 2000) envision the *Dusky* standard as having three distinct prongs by focusing on discrete abilities rather than syntax: (a) factual understanding of the proceedings, (b) rational understanding of the defendant’s role in those proceedings and (c) the ability to consult with counsel. This model of *Dusky* led to the development of specific forensic measures used in the assessment of competency to stand trial (e.g., the Competency Screening Test). While the two versus three prong models provide a basis for academic discussion, the determination of competency depends on the conjunctive nature of the standard. That is, all dimensions must be utilized together because no prong is solely sufficient to make a determination of competence (Shuman, 1994).

#### Rationale for Competency to Stand Trial

Both practical and theoretical rationales have been given for establishing competency to stand trial. On a practical basis, Weiner (1985) presented four justifications for determining competency: (a) to safeguard the accuracy of the proceedings, (b) to ensure procedural fairness, (c) to preserve the dignity of the legal system, and (d) to achieve the objectives of sentencing. Weiner’s reasons for establishing competency facilitate one’s understanding of the need for competency evaluations on a case level.

In an attempt to offer a more theoretical perspective on the necessity for establishing competency, Bonnie (1992) identified a three-part rationale: (a) dignity, (b) reliability, and (c) autonomy. According to Bonnie, trying a defendant who lacks a moral understanding of wrongdoing and subsequently punishing that defendant would offend the moral dignity of the legal proceedings. Bonnie's term reliability addresses the issue that the construct of competency must be operationalized within the attorney-client relationship. That is, in order to present an adequate defense, the defendant must have the capacity to appreciate the utility of certain facts and the wherewithal to provide counsel with that information. If a defendant is not able to provide counsel with such information, then the reliability of the criminal process is jeopardized. Lastly, Bonnie's rationale of autonomy is based on the legal rules that certain decisions regarding the defense must be made by the defendant. One example of such legal decisions is the defendant's ability to waive counsel. A defendant's competency to waive counsel is incorporated in competency to stand trial abilities. As articulated in *Godínez v. Moran* (1993), the defendant's competency to waive counsel does not require a higher level of mental functioning than his/her ability to waive other constitutional rights.

Bonnie (1992) addressed the reasons for establishing competency to stand trial from a more theoretical perspective than Weiner (1985). However, both Bonnie and Weiner put forward rationales that address individual and social issues. Individual issues, as they pertain to the defendant, include the necessity that the defendant is treated fairly and that he/she is accurately classified with respect to competency. Reasons for establishing competency to stand trial from a broader perspective of the

criminal justice system involve social issues, such as having a fair and respected judicial system. These issues were both addressed by Weiner and Bonnie and continue to be the basis of the need for accurate competency to stand trial evaluations.

In sum, the legal framework of the *Dusky* standard was designed to assure a fair trial and to preserve the finality of legal decisions by resolving all doubts regarding the defendant's mental capabilities early in the proceedings (Bonnie, 1992). The *Dusky* standard requires a functional analysis of the defendant's current capacities in his/her current legal context (Grisso, 1986). Although a comprehensive evaluation of competency includes an assessment of mental disorders, the diagnosis of a mental disorder does not imply incompetency. Likewise, a determination of incompetency does not require the diagnosis of a mental disorder (Cruise & Rogers, 1998).

#### Operationally Defining *Dusky*

The accurate assessment of any psychological construct is dependent on a good operational definition of the construct's components. In particular, an accurate classification of competency to stand trial hinges on the clear identification of criteria. As a result, several attempts to identify and clarify the specific psycholegal abilities involved in determining competency have been made since the establishment of the *Dusky* standard.

Bonnie (1992) divided competence into two theoretical constructs which provide a framework for defining the "psycholegal abilities" required for competency to stand trial. They include (a) a foundational competence to assist counsel and (b) a contextualized concept of decisional competence. Bonnie defines competence to

assist counsel as specific criteria that constitute the minimum conditions required for a defendant to participate in his/her own defense. These criteria include (a) the capacity to understand the charges, (b) understanding of the purpose of the legal proceedings and the adversarial system (especially the role of his/her attorney), (c) appreciation of one's situation as the defendant, and (d) the ability to recognize and relate pertinent information regarding the case to his/her attorney. According to Bonnie, these criteria serve both the dignity and reliability rationales for establishing competency.

Bonnie (1992) defined decisional competence as the defendant's ability to understand and choose among alternative courses of action. For example, a defendant must be able to make decisions regarding the plea, the trial (e.g., whether the defendant will be present, and whether the defendant will testify) and the basic theory of defense. Bonnie claims that these abilities should be established with respect to the defendant's normative level of autonomy in the legal proceedings. In other words, the defendant's decisional competence must be examined within the context of the criminal proceedings. Any legal system, such as the system in the United States, that requires some level of autonomy on behalf of the defendant will have an inherent need for decisional competence. While Bonnie (1992) attempted to clarify pertinent psycholegal abilities by dividing them into two theoretical domains, some researchers have attempted to clarify the pertinent psycholegal abilities by presenting them within a specific legal context. Rogers and Mitchell (1991) illustrated four levels of complexity for criminal proceedings: (a) competency to plead, (b) competency in a brief trial, (c) competency in a complicated case, and (d) competency in a complicated trial which



includes testimony. For specific psycholegal criteria within each level of complexity, see Table 1.

*Table 1*

*Progression of Competency Criteria by the Complexity of the Proceedings*

---

Competency to Plead:

1. Ability to understand the charges against him/her
2. Acknowledgment of guilt and agreement with plea bargaining as an alternative
3. Capacity to trust his/her lawyer

Competency in a Brief Trial:

1. Criteria for fitness to plead
2. Ability to maintain courtroom demeanor
3. Ability to follow the courtroom proceedings with minimal assistance

Competency in a Complicated Case:

1. All the above criteria
2. Capacity to actively assess counsel during the trial
3. Greater capacity for concentration and ability to follow courtroom proceedings
4. Ability to maintain appropriate demeanor consistently during several days of trial

Competency in a Complicated Trial which Includes Testimony:

1. All the above criteria
  2. Capacity to present his/her own case clearly
  3. Cognitively intact to the extent of being able to respond clearly to cross-examination
  4. Ability to work closely with defense counsel in preparation for testimony
- 

*Note.* Presented by Rogers and Mitchell (1991, p. 97-98) in *Mental health experts and the criminal courts*.

As previously mentioned, the psycholegal criteria needed to establish competency to stand trial are dependent on the individual and the complexity of the trial. In an attempt to better operationalize the pertinent criteria, Skeem and Golding (1998) identified 31 psycholegal abilities from modern competency to stand trial

assessment manuals and instruments. They divided these abilities into 11 global domains of competency which can be found in Table 2.

*Table 2*

*Domains and Subdomains of Competency to Stand Trial*

---

1. Capacity to comprehend and appreciate the charges or allegations
  - a. Factual knowledge of the charges (ability to report charge label)
  - b. Understanding of the behaviors to which the charges refer
  - c. Comprehension of the police version of events
2. Capacity to disclose to counsel pertinent facts, events, and states of mind
  - a. Ability to provide a reasonable account about one's behavior around the time of the alleged offense
  - b. Ability to provide information about one's state of mind around the time of the alleged offense
  - c. Ability to provide and account of the behavior of relevant others around the time of the alleged offense
  - d. Ability to provide an account of police behavior
  - e. Comprehension of the *Miranda* warning
  - f. Confession behavior (influence of mental disorder, suggestibility, and so forth on confession)
3. Capacity to comprehend appreciate the range and nature of potential penalties that may be imposed in the proceedings
  - a. Knowledge of penalties that could be imposed (e.g., knowledge of the relevant sentence label associated with the charge, such as "5 to life")
  - b. Comprehension of the seriousness of charges and potential sentences
4. Basic knowledge of legal strategies and options
  - a. Understanding of the meaning of alternative pleas (e.g., guilty and mentally ill)
  - b. Knowledge of the plea bargaining process
5. Capacity to engage in reasoned choice of legal strategies and options
  - a. Capacity to comprehend legal advice
  - b. Capacity to participate in planning a defense strategy
  - c. Plausible appraisal of likely outcome (e.g., likely disposition for one's own case)
  - d. Comprehension of the implications of a guilty plea or plea bargain (i.e., the rights waived on entering a plea of guilty)
  - e. Comprehension of the proceeding pro se (e.g., the rights waived and the ramification of waiver)
  - f. Capacity to make a reasoned choice about defense options (e.g., trial strategy, guilty plea, proceeding pro se, pleading insanity) without distortion attributable to mental illness (an ability to rationally apply knowledge to one's own case)
6. Capacity to understand the adversary nature of the proceedings
  - a. Understanding of the roles of courtroom personnel (i.e., judge, jury, prosecutor)
  - b. Understanding of courtroom procedure (the basic sequence of trial events)
7. Capacity to manifest appropriate courtroom behavior
  - a. Appreciation of appropriate courtroom behavior
  - b. Capacity to manage one's emotions and behavior in the courtroom
8. Capacity to participate in trial

- a. Capacity to track events as they unfold (not attributable to the effects of medication)
    - b. Capacity to challenge witnesses (i.e., recognize distortions in witness testimony)
  - 9. Capacity to testify relevantly
  - 10. Relationship with counsel
    - a. Recognition that counsel is an ally
    - b. Appreciation of the attorney-client privilege
    - c. Confidence in and trust in ones' counsel
    - d. Confidence in attorneys in general
    - e. Particular relationship variables that may interfere with the specific attorney-client relationship (i.e., attorney skill in working with the client; problematic socioeconomic or demographic differences between counsel and client)
  - 11. Medication effects on Competency to Stand Trial
    - a. Capacity to track proceedings given sedation level on current medication
    - b. Potentially detrimental effects of medication on the defendant's courtroom demeanor
- 

*Note.* This table is reproduced from Skeem and Golding (1998).

### Assessment of Competency

Traditional methods of assessing competency were typically unstructured interview-based evaluations that focused on the individual defendant and his/her mental disorder. However, competency evaluations increased in standardization as they focused more on the effects that mental disorders have on a defendant (i.e., impairment of legal understanding) and less on the disorder itself. Prior to this evolution, the vast majority of psychiatrists evaluating defendants for competency were unaware of the legal criteria for competency and many clinicians applied the wrong standard (Hess & Thomas, 1963; Pfeiffer, Eisenstein, & Dabbs, 1967). In addition, clinicians often felt that the accused must be free from any symptoms of a mental disorder in order to be deemed competent to stand trial. As observed by Robey (1965), "All too often in his report to the court, the psychiatrist will omit any mention of competency and refer only to the presence of mental illness and the need for hospitalization" (p. 617).

In 1965, Robey created a checklist of legal criteria to be used in competency to stand trial evaluations. This checklist was intended to provide mental health professionals with a convenient review of criteria that should be investigated in assessing a defendant's competency. Based on the *Dusky* standard, Robey's checklist stipulated that the defendant must show a capacity to (a) listen to the testimony of witnesses and inform his lawyer of any distortions or misstatements, (b) maintain a consistent defense (e.g., not insist on a change in strategy without adequate reason), (c) testify in his or her own defense, and (d) make decisions in response to well-explained alternatives (e.g., should the defendant waive his or her rights).

Robey (1965) also examined "capacity to consult" as a key component of competency to stand trial. He articulated the following:

...the patient must be able to divulge to his lawyer without paranoid distrust the facts of the case as he understands them, even if those "facts" involve delusional distortion. He must decide with his lawyer upon a plea and approve the legal strategy to be used during the trial. He must also show a capacity to maintain the relationship with his lawyer. For example, he cannot discharge his lawyer solely on the basis of paranoid suspicions or delusions and still be considered competent (Robey, 1965, p. 619).

Although Robey provided an assessment framework, a more standardized method of eliciting this information was needed. The next section reviews the first generation of competency measures.

### First Generation Competency Measures

Robey's (1965) checklist signified the initial development of forensic measures. Forensic measures were designed to assess explicit psycholegal constructs and to respond to specific referral questions asked by the justice system. The first

generation competency measures fell short in their measurement of the three prongs of the *Dusky* standard: (a) factual understanding, (b) rational understanding, and (c) ability to consult with counsel. Unfortunately, most of the first-generation competency measures failed to establish good construct validity in relation to these prongs.

First-generation measures tended to be interview-based instruments that were developed in order to gather pertinent information regarding competency to stand trial in a standardized manner. However, early measures were typically self-report instruments that sacrificed eliciting case-specific information in lieu of standardization. As the development of competency to stand trial measures evolved, instruments improved in their ability to elicit case-specific information relevant to *Dusky*. Early research on first-generation measures is important to understand the subsequent developments of modern competency measures.

In this section, all first generation competency measures designed to assess the psycholegal abilities outlined in *Dusky* will be presented. Each measure will be discussed with respect to its development, administration, and scoring criteria. Furthermore psychometric data for each measure is provided.

#### Competency Screening Test (CST)

##### *Development and Administration*

The Competency Screening Test (CST; Lipsitt, Lelos, & McGarry, 1971) is a 22-item sentence completion instrument that focuses on courtroom situations relevant to the legal criteria of competency. Each item is scored on a three-point scale (0-2) with high agreement among trained scorers (interjudge reliability = .93). The CST was

developed in 1971, during a time when defendants who were deemed incompetent were often hospitalized indefinitely. Early research (Lipsitt et al., 1971) suggested that the use of the CST reduced the likelihood of a competent person being hospitalized indefinitely since the majority of defendants with high scores were returned for trial.

### *Psychometric Properties*

Nicholson, Briggs, and Robertson (1988) performed an internal consistency analyses and factor analyses on the CST with 140 inpatient defendants admitted to the Forensic Unit of a state hospital. The CST showed high internal reliability (alpha coefficient of .85) and an inter-item correlation of .20. However, relatively few of the items correlated with psychopathology. Furthermore, the three factors from the principal axis factoring (PAF) with a varimax rotation were difficult to interpret and did not appear congruent with *Dusky*. A later study by Bagby, Nicholson, Rogers, and Nussbaum (1992) also failed to produce clear and independent factors for the CST.

### *Criterion-Related Validity*

As a screen for competency evaluations, the CST has been studied extensively with results consistently establishing its criterion-related validity. Using a sample of 50 male residents at a state forensic unit, Nottingham and Mattson (1981) found that the CST correctly predicted the competency recommendations of a forensic team in 82% of the cases. Nicholson, Robertson, Johnson, and Jensen (1988) found that 71.2% of their classifications based on the CST cut scores were consistent with independent clinical decisions of competency. Furthermore, determinations of competency based on the CST were highly correlated with corresponding

determinations based on the GCCT (Nicholson et al., 1988).

#### *Abbreviated Versions of the CST*

Several short forms of the CST have been offered as efficient screens of competency (Nicholson, 1988; Parmesh, 1987; Shatin, 1979). These studies suggest a general equivalence between the CST and abbreviated versions. As a result of their brevity, these versions are marginally more time efficient.

#### *Summary of Measure*

Although research has repeatedly established the criterion-related validity of the CST, studies have failed to establish its construct validity. The CST does not appear to have either a clear factor structure or correspondence to the *Dusky* standard. In addition, the CST employs the use of an arbitrary cut score established by Lipsitt et al. (1971) that is based on qualitative differences between defendants scoring above and below 20. The use of an arbitrary cut score lacks empirical validation and complicates the interpretation of scores that are near the cut score. Nevertheless, the CST could facilitate a decision of competency when the defendant scores extremely high or low. In summary, research suggests that the CST should not solely be used by clinicians to make decision regarding a defendant's competency to stand trial.

The CST appears to offer some utility as a screen for competency to stand trial. Furthermore, research supports the utility of the abbreviated versions of the CST which can be administered quickly and often predicts competency as accurately as the original CST. Given its paper-and-pencil format, Lipsitt et al. (1971) suggested that it could be administered in courtroom setting by probation officers or social workers. Toward this objective, the CST was designed as a screening measure and “where an

issue of competency remains, a referral could be made to a state hospital for intensive evaluation” to determine competency (Lipsitt et al., p. 108). In keeping with its original objective, determinations of competency should not be made solely on the results of the CST.

### Competency Assessment Instrument (CAI)

#### *Development and Administration*

The Competency Assessment Instrument (CAI; McGarry, 1973) was developed to address the need for a brief evaluation for competency to stand trial. Historically, competency assessments were often conducted as lengthy inpatient evaluations (Roesch, 1978). In an attempt to alter the system, brief community-based evaluations were implemented via the CAI. The CAI was designed to measure a defendant's awareness and understanding of competency issues with a focus more on legal than clinical criteria. The CAI is a semi-structured interview that assesses 13 functions of competency to stand trial such as (a) an appraisal of available legal defenses, (b) the planning of legal strategy, and (c) the capacity to testify relevantly. Each item is scored on a five-point likert scale. The CAI manual suggests that a defendant who scores consistently low ( $<3$ ) should be remanded to an inpatient unit for further evaluation.

#### *Reliability*

With respect to reliability, Roesch (1978) found that inter-rater agreement on individual items ranged from 68.8% to 96.7%, with a median of 81.2%. Grisso (1986) also examined the inter-rater reliability of the CAI and found very high correlations for experienced ( $r = .92$ ) and inexperienced ( $r = .87$ ) raters.



### *Criterion-Related Validity*

Roesch (1978) studied the utility of the CAI as a brief evaluation prior to a lengthier assessment for the determination of competency. The CAI was compared to competency judgements made by hospital staff and had an overall rate of agreement of 90%. Other studies have found only moderate agreement when compared to evaluations by hospital staff (Schreiber, 1982) and other competency measures (i.e., the CST and IFI; Schreiber, Roesch, & Golding, 1987).

### *Summary of Measure*

The CAI was designed to assess competency in a community-based evaluation as opposed to the traditional institutionally based evaluations. However, research suggests that the CAI would not serve as a good assessment measure. With respect to criterion-related validity, some studies produced only moderate results. Schreiber et al., (1987) found that as many as 10% of the defendants found unfit by the hospital or court would be considered fit if decisions were based solely on the CAI. The CAI's primary contribution to competency to stand trial measures is methodological. Its development signaled the initial use of more structured interviews for competency evaluations that focused primarily on the legal issues as opposed to the defendants' mental disorders.

### *Interdisciplinary Fitness Interview (IFI)*

#### *Development and Administration*

The Interdisciplinary Fitness Interview (IFI; Golding, Roesch, & Schreiber, 1984) is administered by a clinician-lawyer team. This design in administration was

intended to link the different perspectives of psychology and law. However, by design, its administration is less practical than other competency measures. Specifically, the necessity of employing both a lawyer knowledgeable in mental health and a forensic psychologist for assessment makes its administration difficult.

The IFI consists of three major sections that are rated separately by each examiner: (a) Section A: Legal Issues, (b) Section B: Psychopathological Issues, and (c) Section C: Overall Evaluation of Competency. Each section requires a different decision making process on behalf of the rater. For Legal Issues, five psycholegal abilities are considered on a three-point likert scale with respect to incapacity of the defendant and the effects of those abilities on the overall decision of competence. For Psychopathological Issues, the rater is required to rate ten symptoms on how they affect competency. Finally, on Overall Evaluation of Competency, examiners are asked to make a global judgement of competency, assign a confidence rating to that judgement, and comment on factors that contributed to that decision. The rationale behind the three sections of the IFI is the need for a defendant's competency to be considered within the context of his/her legal proceedings. In particular, different cases should vary in how much weight is assigned to the IFI's three sections depending on case-specific issues.

### *Reliability*

Golding et al. (1984) provided preliminary reliability and validity data on the IFI using 77 pretrial defendants referred for competency evaluations. With respect to inter-rater reliability, they found excellent agreement (mean kappa coefficient = .93) on

overall competency (Section C). Agreement between attorneys and mental health professionals was better on Psychopathological Issues (Section B; mean kappa coefficient = .67) than Legal Issues (Section A; mean kappa coefficient = .48).

#### *Criterion-Related Validity*

Schreiber et al. (1987) found decisions of competency based on the IFI significantly agreed with corresponding judgements on the CAI. Furthermore, they found that interviewers who utilized the IFI had the highest agreement (90.6%) with a review panel consisting of a consensus of two nationally respected experts who reviewed the cases. However, it should be noted that although the panelists reviewed the police and hospital records, they also had access to the "project interviews". In other words, criterion contamination occurred because the panelists were exposed to the IFI results in rendering their decisions of competency. This confound undermines the criterion-related validity established by the study.

#### *Summary of Measure*

The IFI promised well-substantiated recommendations of competency based on its multi-disciplinary approach. However, the impractical nature of its administration questions its utility as an efficient measure of competency to stand trial. Furthermore, research findings support the reliability of the measure, but data on its criterion-related validity appear contaminated.

#### Georgia Court Competency Test (GCCT)

##### *Development and Administration*

The GCCT (Wildman et al., 1980) was originally developed as a rapid and

quantitative screening device. It is a semi-structured interview that can be administered and scored by paraprofessionals. The original GCCT was composed of 17 items that addressed courtroom and legal proceedings, current charges and possible penalties, and the attorney-client relationship (Wildman et al., 1979). The GCCT has undergone several revisions. In 1987, the GCCT was expanded to include 21 items in a semi-structured interview format with scoring criteria for each item and a cut score for competency recommendations (Georgia Court Competency Test - Mississippi State Hospital [GCCT- MSH]; Johnson & Mullet, 1987). In 1992, an eight-item screen for feigning was added to the GCCT-MSH (Georgia Court Competency Test - 1992 Revision [GCCT]; Gothard, Rogers, & Sewell, 1995).

### *Reliability*

Research on the GCCT-MSH demonstrated excellent inter-rater reliability (Nicholson et al., 1988) and good internal consistency across multiple studies. With respect to internal consistency, Nicholson et al. (1988) reported a high Cronbach's alpha of .88 with a mean inter-item correlation of .36. Similarly, Ustad, Rogers, Sewell, and Guarnaccia (1996) reported a Cronbach's alpha of .89 with a mean inter-item correlation of .28.

### *Validity*

With respect to criterion-related validity, the GCCT-MSH has consistently classified defendants as competent or incompetent. Demonstrating its utility as a screen, Nicholson et al. (1988) reported an overall hit rate of 85.4% with a false positive rate of 53.6%. As mentioned above, the GCCT-MSH showed a high rate of agreement

with decisions of competency based on the CST.

The construct validity of the GCCT has been extensively researched with respect to its underlying factor structure. However, these studies of the GCCT-MSH have produced conflicting findings. The original factor analysis produced two factors: “knowledge of the court” and “style of responding to legal situation” (Grisso, 1986, p. 103). In 1988, Nicholson et al. established a three- factor solution: (a) general legal knowledge, (b) courtroom layout, and (c) specific legal knowledge. They found the factor most predictive of staff decisions of competency was "specific legal knowledge" which included items relevant to the defendant's case. It also appeared to assess psychopathology and intellectual ability. In 1992, Bagby et al. used congruence analyses to test the three-factor solution and found good congruence for two of the three factors. These two factors corresponded to the “courtroom layout” factor and “specific legal knowledge” factor found by Nicholson et al. (1988).

Recent studies (Rogers, Ustad, Sewell, & Reinhart, 1996; Ustad et al. 1996) have failed to confirm the three-factor solution previously established by Nicholson et al. (1988). However, a two-factor solution with unique loadings on “legal knowledge” was established via exploratory factor analysis (PAF with varimax rotation; Ustad et al., 1996). The two-factor solution by Ustad et al. (1996) accounted for 36.0% of the variance and was similar to the two-factor solution established by Bagby et al. (1992) with “legal knowledge” and “courtroom layout” as factors. In summary, factor analytic studies fail to establish a stable factor structure for the GCCT. However, several factor structures have been suggested and research has demonstrated the presence of one

distinct factor assessing “legal knowledge”.

### *Summary of Measure*

The GCCT has been studied extensively, but problems continue with its validation. With respect to construct validity, research provides some evidence of independent factors on the GCCT; however, these factors do not appear to be stable nor representative of the underlying constructs of the *Dusky* standard. The criterion-related validity of the GCCT has been established with high rates of agreement between the GCCT and staff decisions of competency. However, the high base rate of competent defendants in several of these studies calls to question its criterion-related validity. Despite one study with a lower base rate of competent defendants (Wildman, White, & Brandenburg, 1990), the criterion-related validity of the GCCT remains questionable.

### Second Generation Competency Measures

The relevance of first-generation competency measures to the *Dusky* standard is questionable. Two reasons for the questionable relevance are (a) the lack of research supporting their construct validity, and (b) the lack of opportunity to educate misinformed defendants. Regarding the latter, defendant’s competency is not solely determined by his or her current knowledge of the legal process. For example, when assessing for factual understanding, the defendant would not automatically be deemed incompetent for not knowing the role of the prosecutor. The question of competency lies in the defendant’s ability to learn factual information about court proceedings. In addressing this issue, second-generation measures, such as the MacArthur

Competence Assessment Tool - Criminal Adjudication (MacCAT-CA; Poythress et al., 1999) and the Evaluation of Competency to Stand Trial - Revised (ECST-R; Rogers & Tillbrook, 1998), were designed to determine competency based not only on the defendant's current knowledge, but also on his/her ability to assimilate new information.

This review focuses on two recently developed competency measures, the MacCAT-CA and ECST-R, that not only assess for the defendant's current knowledge of the legal system, but attempts to educate the individual when he or she does not readily reply with the correct response. The MacCAT-CA is a semi-structured interview that was developed from a longer research interview, the MacArthur Structured Assessment of the Competencies of Criminal Defendants (MacSAC-CD; Hoge et al., 1997). The ECST (Rogers, 1995) was developed in order to better address the psycholegal abilities put forth in *Dusky v. United States* and to provide clinicians with a standardized method of assessing feigned incompetence. These measures are reviewed individually in subsequent sections.

#### The MacArthur Competence Assessment Test - Criminal Adjudication (Mac-CAT-CA) *Development and Administration*

As mentioned previously, the MacCAT-CA was developed from the MacSAC-CD (Hoge et al., 1997) which was developed with the intent of providing a superior research tool utilized to investigate specific abilities related to competency. On the MacSAC-CD and the subsequent MacCAT-CA, the defendant is presented with a vignette and subsequently responds to questions addressing competency issues. The defendant must select which of two facts in the vignette is more important to tell a

lawyer and make hypothetical decisions by weighing the risks and benefits associated with these facts. The defendant must also reflect on his own case and assess the probability of certain legal outcomes and the best way to plead.

MacCAT-CA uses standardized questions in a semi-structured interview format with criterion-based scoring to measure competence-related abilities (i.e., understanding, reasoning, and appreciation). In addition, the MacCAT-CA evaluates a defendant's ability to understand and assimilate new legal information through exposure to correct information and immediate retesting. In other words, if the defendant incorrectly responds to questions about the legal process he or she is presented with the correct information and given a second chance to answer the item correctly. Poythress et al. (1998) asserted that this is an advantage over most contemporary competency measures which focus mostly on present, or factual knowledge, and not a defendant's ability to learn and make appropriate decisions.

The length of administration and difficult scoring system of the MacSAC-CD led to the development the more condensed, clinical version, the MacCAT-CA. In contrast to the MacSAC-CD's length (i.e., 47 items and nearly 2 hours to administer), the MacCAT-CA consists of 22 simpler items that can be administered in 20 to 30 minutes. In addition, the administration and scoring procedures were simplified for the MacCAT-CA. All items on the MacCAT-CA are administered verbally with possible scores on each item ranging from 0 (no credit) to 2 (full credit).

### *Construct Validity*

The MacSAC-CD and the subsequent MacCAT-CA operationalize Bonnie's



(1992) two dimensional theory of competency: competence to assist counsel and decisional competence. The MacCAT-CA includes items that tap both of these conceptual domains and combines items to assess three psycholegal abilities: (a) understanding, (b) reasoning, and (c) appreciation. Although the design focuses on a contemporary legal theory, its relevance to *Dusky* is questionable as the majority of MacCAT-CA items pertain to a hypothetical vignette. In contrast, *Dusky* requires the assessment of case-specific abilities. Thus, it is unclear if the three psycholegal abilities of the MacCAT-CA tap the underlying constructs of the *Dusky* standard.

#### *Reliability*

Otto et al. (1998) examined the internal consistency of the three competency-related abilities and found satisfactory alpha coefficients: .85 (understanding), .81 (reasoning), and .88 (appreciation). However, these scale reliability indicators are dependent on inter-item correlations which were substantial (i.e., .42, .36, and .54 respectively). Inter-scorer reliability coefficients ranged from moderate to excellent (appreciation = .75, reasoning = .85, understanding = .90). However, this estimate of reliability is confounded by hierarchical questions that cue the second rater and subsequently inflate reliability estimates (Rogers, 2001).

#### *Criterion-Related Validity*

The MacCAT-CA demonstrated an ability to distinguish between defendants hospitalized for incompetency and presumably competent defendants receiving mental health services in jail. Poythress et al. (1998) found the hospitalized incompetent group scored lower on Understanding and Appreciation subscales than nonhospitalized

competent defendants. No differences were found on the Reasoning subscale, which corresponds to the ability to consult with counsel prong of the *Dusky* standard (Poythress et al., 1999). Perhaps its inability to distinguish between competent and incompetent individuals stems from the hypothetical nature of the attorney-client relationship.

### The Evaluation of Competency to Stand Trial (ECST)

#### *Development and Administration*

The Evaluation of Competency to Stand Trial (ECST) was developed by Rogers in 1995 and later revised (ECST-R; Rogers & Tillbrook, 1998). The ECST-R goes beyond the MacCAT-CA in that it emphasizes the defendant's relationship with his or her attorney and includes a screen for feigning. The ECST-R is a semi-structured interview with items that are rated on levels of impairment due to psychotic symptoms and self defeating motivation. The ECST-R includes a few brief questions establishing the basis of the attorney-client relationship, followed by four sections: (a) Nature of the Attorney-Client Relationship, (b) Factual Understanding of Courtroom Proceedings, (c) Rational Understanding of Courtroom Proceedings, and (d) Atypical Presentation.

#### *Reliability*

With respect to inter-rater reliability, Tillbrook (1998) analyzed the ratings of three raters and produced moderate results (phi coefficients ranged from .69 to .83). Furthermore, Tillbrook (2000) established a moderately high level of internal consistency (alpha = .75) for the ECST-R.

#### *Criterion-Related Validity*

Tillbrook (1997) established the criterion-related validity of the ECST through correlations between three individual clinicians and (a) forensic examiners and (b) circuit court judges. When compared to forensic examiners, the correlations between different raters varied. Moderate correlations were found consistently with circuit court judges.

### *Construct Validity*

The development of the ECST emphasized clinically relevant constructs associated with the three major components of the *Dusky* standard. This objective was accomplished through a prototypical analysis on a preliminary set of psycholegal criteria and subcriteria. First, the *Dusky* standard was operationalized through the use of psycholegal constructs relevant to most criminal cases and able to be assessed within the confines of forensic evaluations. Then, a panel of forensic and legal experts rendered prototypical ratings of the psycholegal criteria and subcriteria established. Results indicated that items on the ECST ranged from moderately representative to very representative of the *Dusky* standard. Although the importance and centrality of factual understanding was more variable than either rational understanding or ability to consult with counsel, the criteria were generally judged to be very representative of *Dusky*.

### Feigning Incompetence to Stand Trial

Defendants may be tempted to feign incompetency, either to delay the proceedings or to possibly mitigate the eventual sentence, due to the gravity of their legal situation. Therefore, it is essential that competency measures systematically

assess for feigned incompetency. Unfortunately, competency measures have neglected to evaluate feigned incompetency. Only one first-generation measure (the GCCT) and one second-generation measure (the ECST-R) address this crucial issue.

The GCCT includes eight items designed to screen for atypical presentation. Included in these items are absurd questions such as, "Are the judge's black robes associated with black magic?" and rarely endorsed symptoms such as, "Do you often wonder what the court reporter is really thinking?" Gothard et al. (1995) investigated the revised GCCT's ability to screen for feigning. Results indicated that competent offenders were able to simulate incompetency and scored low on the GCCT. They concluded that the GCCT Atypical Presentation Scale (G-APS) showed promise in the screening of defendants for feigned incompetency.

One primary reason for the development of the ECST was to provide clinicians with a standardized method to screen for feigned incompetency. The ECST-R Atypical Presentation Scale (E-APS) includes 28 items that measure unusual presentation through several detection strategies. These detection strategies include: (a) rare symptoms, (b) symptom combinations, (c) indiscriminant symptom endorsement, and (d) symptom severity. Each of these strategies is described in detail below.

The E-APS employs two related strategies: rare symptoms and symptom combinations. The rare symptom strategy "involves the overendorsement of symptoms and associated features that occur only occasionally in patients with mental disorders" (Rogers, 1997, p. 303). According to Rogers, rare symptoms is one of the most robust

strategies for the detection of feigning. An example of a rare-symptom item from the E-APS is: "Do people in the courtroom use telepathic powers to make you say things against your will?" A second and related strategy used to detect feigning is symptom combinations. This detection strategy involves the endorsement of symptom pairs that typically do not occur together in genuine patients. An example of a symptom-combinations item from the E-APS is the following: "Do you feel so upset about court, that your memory plays tricks on you?".

Unlike the rare symptoms and symptom combination strategies that involve only atypical items, two other strategies involve an analysis of all responses. One such strategy is indiscriminant symptom endorsement (Rogers, 1997). This strategy assesses the overall proportion of symptoms endorsed by the defendant. If an unrealistically high proportion of symptoms are endorsed on the E-APS, feigning should be suspected. A second strategy based on the entire scale is the severity of symptoms (Rogers, 1997). On every item in which the defendant endorses a symptom, he or she is asked about its severity in relationship to competency. Namely, they are asked if that symptom makes it difficult for them to participate in the legal process. A high number of symptoms that allegedly impair competency could suggest feigning. All of these interview-based strategies for detecting feigning have been validated in research with both simulation designs and known groups comparisons (Rogers, 1997).

### Current Study

#### Purpose of the Study

Competency to stand trial evaluations constitute the largest number of

criminal referrals for forensic psychologists, with estimates reaching approximately 50,000 per year (Skeem et al., 1998). Although research generally supports the use of specific forensic measures in facilitating decisions regarding competency to stand trial, the relevance of those measures to the *Dusky* standard is questionable. With respect to the validity, research has traditionally focused primarily on criterion-related validity of single competency measures. The construct validity of second generation measures has not been systematically studied. Furthermore, studies of convergent validity across different first generation competency measures do not address the applicability to *Dusky*. Using a standardized approach, this study examined the construct validity of three competency measures. Its purpose was to demonstrate how well those measures address the psycholegal constructs of *Dusky*.

Because the assessment of malingering and deception is a necessary component of comprehensive competency evaluations, the second purpose of this study involved determining which competency measures best address issues of feigned incompetence. Using the SIRS as the gold standard, two competency measures are examined for their ability to screen for feigning. Utility estimates included positive predictive power (PPP), negative predictive power, sensitivity (NPP), specificity, and hit rates.

## Research Questions

### *Research Question #1*

Is there evidence of convergent and discriminant validity across competency measures for the three prongs of the *Dusky* standard?

*Research Question #2*

Which of the competency measures has the best construct validity for determining competency to stand trial?

*Research Question #3*

What are the relative contributions of psychotic and mood symptoms to the prediction of defendants' competency to stand trial?

*Research Question #4*

How effective are the ECST Atypical Presentation Scale and the GCCT Atypical Presentation Scale as screens for feigning?

## CHAPTER 2

### METHOD

#### Research Design

The construct validity of the three competency measures was evaluated by using a multitrait-multimethod design. Table 3 provides a conceptualization of the multitrait-multimethod matrix which was utilized in order to investigate the research questions addressing the validity of competency measures. Construct validity of the *Dusky* Standard was examined through comparisons of convergent and discriminant validity coefficients based on the criteria established by Campbell and Fiske (1959). Convergent validity is the correlations across similar measures (i.e., monotrait-heteromethod) for each *Dusky* prong. Discriminant validity consists of the correlations between different constructs both (a) within a measure (i.e., heterotrait-monomethod) and (b) between measures (i.e., heterotrait-heteromethod; see Table 3). For the purpose of the analyses, items on each measure were categorized by the three *Dusky* prongs as illustrated in Table 4.



Table 3

*Multitrait-Multimethod Matrix for the Dusky Prongs of Competency to Stand Trial*

		GCCT			MacCAT-CA			ECST		
		Factual	Rational	Assist	Factual	Rational	Assist	Factual	Rational	Assist
GCCT										
Factual	$\alpha$									
Rational	$D_1$	$\alpha$								
Assist	$D_1$	$D_1$	$\alpha$							
MacCAT-CA										
Factual	C	$D_2$	$D_2$	$\alpha$						
Rational	$D_2$	C	$D_2$	$D_1$	$\alpha$					
Assist	$D_2$	$D_2$	C	$D_1$	$D_1$	$\alpha$				
ECST										
Factual	C	$D_2$	$D_2$	C	$D_2$	$D_2$	$\alpha$			
Rational	$D_2$	C	$D_2$	$D_2$	C	$D_2$	$D_1$	$\alpha$		
Assist	$D_2$	$D_2$	C	$D_2$	$D_2$	C	$D_1$	$D_1$	$\alpha$	

*Note.* Factual = factual understanding; Rational = rational understanding; Assist = ability to consult with counsel  
 $\alpha$  = Alpha Coefficients (monotrait-monomethod); C = Convergent Validity (monotrait-heteromethod);  
 $D_1$  = Discriminant Validity (heterotrait-monomethod);  $D_2$  = Discriminant Validity (heterotrait-heteromethod);

Table 4

*Correspondence Between the Dusky Prongs and Scales on Competency Measures*

<u>Measure</u>	<u>Scales or Sections of Measure</u>	<u>Dusky Prongs</u>
GCCT-MSH	Picture of court and functions	Factual Understanding
	Charge	Rational Understanding
	Nature of attorney-client relationship	Ability to Assist Counsel
MacCAT-CA	Understanding	Factual Understanding
	Appreciation	Rational Understanding
	Reasoning	Ability to Assist Counsel
ECST	Factual understanding of courtroom proceedings	Factual Understanding
	Rational understanding of courtroom proceedings	Rational Understanding
	Basis and nature of attorney-client relationship	Ability to Assist Counsel

As previously stated, analysis of the *Dusky* standard via the multitrait-multimethod compares the relative strength of the convergent and discriminant validity. In particular, the convergent correlation should be higher than both the heterotrait-heteromethod and the heterotrait-monomethod correlations. A comparison violation occurs when the discriminant validity coefficients are higher than the convergent validity coefficients. The following criteria established by Bagozzi and Yi (1991) for determining the level of discriminant validity via comparison violations were utilized: “high” has less than 5% comparison violations; “moderate” has 6 to 33% comparison violations; and “low” has more than 33% comparison violations.

#### Participants

One-hundred mentally disordered offenders were recruited from the mental health pods at the Tarrant County Jail in Fort Worth, Texas. Only male defendants were included in the study because the Tarrant County Jail does not have a mental health unit for female offenders. All inmates in the mental health pod were in treatment consisting primarily of psychotropic medications. These medications included (a) antidepressants and mood stabilizers, (b) anxiolytics, and (c) antipsychotic medications.

#### *Informed Consent*

Inmates that agreed to take part in the study were informed that their participation was entirely voluntary and that there was no penalty for not participating. Furthermore, inmates were informed that the interviews would have no effect on their treatment or their legal case. They were asked to give written informed consent affirming that they understand the above conditions. The study and its consent forms

were approved by the University of North Texas Institutional Review Board.

## Measures

### *Georgia Court Competency Test - Mississippi State Hospital (GCCT)*

The GCCT has 29 items divided into three sections. The first section (14 items) rates the defendant's knowledge of courtroom layout and the roles of the participants in a trial. The second section (7 items) is divided into three parts: (a) ability to assist attorney, (b) knowledge of charges and possible penalties, and (c) recollection of events. Finally, the third section (8 items) is an Atypical Presentation Scale administered to assess for feigning. The GCCT is administered as semi-structured interview and can be completed in 15 to 20 minutes.

The GCCT-MSH (Johnson & Mullett, 1987) has been extensively tested in numerous jurisdictions and widely used in the evaluation of competency. The GCCT-MSH has demonstrated both criterion-related validity (e.g., high correlations with staff decisions of competency) and discriminant validity (e.g., no significant correlation with staff decisions of criminal responsibility). Using the recommended cut score of 70, Nicholson et al., (1988) found that the GCCT-MSH accurately classified 94.3% of defendants and demonstrated excellent inter-rater reliability ( $r = .95$ ). In addition, as mentioned in the introduction, both the GCCT-MSH and the revised GCCT have demonstrated good internal reliability and scale homogeneity (Nicholson et al., 1988; Ustad et al., 1996).

### *MacArthur Competency Assessment Test (Mac-CAT-CA)*

The MacCAT-CA is administered as a semi-structured interview consisting of

22 items that can be administered in 20 to 30 minutes. Since each item is scored between 0 (no credit) and 2 (full credit), the range of total scores for the component measures is 0-16 for understanding, 0-16 for reasoning, and 0-12 for appreciation.

The Mac-CAT-CA (Hoge et al., 1997) represents the most recent development in competency measures. The psychometric properties of the MacCAT-CA's psycholegal abilities of understanding, reasoning, and appreciation were examined in a national normative study funded by the National Institute of Mental Health (Otto et al., 1998). As mentioned in the previous chapter, the psycholegal abilities of the MacCAT-CA demonstrated relatively high alpha coefficients (.81-.88), but yielded substantial mean inter-item correlations (.36 - .54). The MacCAT-CA's inter-rater reliabilities ranged from good to excellent (.75 - .90).

Otto et al. (1998) also examined the construct validity of the MacCAT-CA in relation to competency status, correlations with clinical judgments of competence, and correlations with psychopathology. In addition to its ability to discriminate between competent and incompetent defendants, the MacCAT-CA demonstrated concurrent and convergent validity.

#### *Evaluation of Competency to Stand Trial (ECST)*

The ECST (Rogers, 1995) consists of two components. Part 1 of the measure consists of 30 items that assesses the following aspects of competency to stand trial: (a) the basis of the attorney-client relationship, (b) the nature of the attorney-client relationship, (c) factual understanding of the courtroom proceedings, and (d) a rational understanding of the courtroom proceedings. The second part of the ECST

consists of 28 items that screen defendants for feigned incompetency. Both sections of the ECST can be administered in 30 minutes.

Two studies have established moderately high levels of inter-rater reliability for the ECST with agreement between raters of 89.3% (Tillbrook, 1997) and 85.5% (Tillbrook, 2000). Tillbrook (1998) produced highly reliable results with the ECST that were convergent with legal outcomes in a study of 26 male pretrial defendants. The validity of the ECST was established through correlations between three individual raters and (a) forensic examiners and (b) circuit court judges. When compared to forensic examiners, the correlations of the different raters varied (phi coefficients of .75, .48, and .78). Moderate correlations were found when the individual rater's decisions were compared to that of circuit court judges (phi coefficients of .66, .79, and .66).

#### *Schedule of Affective Disorders and Schizophrenia - Change Version*

The SADS-C (Spitzer & Endicott, 1978b) is a brief diagnostic interview that can be administered in 15-20 minutes and is intended to measure important dimensions of psychopathology. Abbreviated from the SADS (Spitzer & Endicott, 1978a), it includes 45 items assessing key psychiatric symptoms. The SADS-C has been shown to have a high degree of reliability for symptoms (median ICC = .88) and for summary scales (median ICC = .93; McDonald-Scott & Endicott, 1984). Furthermore, Johnson, Margo, and Stern (1986) found the symptom subscales of the SADS-C to have convergent and discriminant validity with other diagnostic instruments. Moreover, the

SADS-C was able to accurately discriminate between broad diagnostic groups.

#### *Structured Interview of Reported Symptoms (SIRS)*

The SIRS (Rogers, 1992) is a structured interview consisting of 172 items that focuses on response styles and will be used to classify participants as feigning or not feigning. The SIRS, which can be administered in 20 to 30 minutes, has excellent reliability and discriminant validity (Rogers, 1995; Rogers, 2001). Furthermore, it has high inter-rater reliability (median  $r = .95$ ), even when used by nonprofessionals (Linblad, 1993). Gothard et al. (1995) tested the effectiveness of the SIRS in detecting malingering of competency to stand trial. They found that simulators and suspected malingerers scored significantly higher on all of the SIRS primary scales. Furthermore, the SIRS had an overall hit rate of 97.8% using 3 or more primary scales as the criterion for malingering.

#### *Procedure*

##### *Participant Recruitment*

All offenders on the mental health pods were invited to participate in this study; however, not all inmates on the pod volunteered. Participation was completely voluntary and no incentives were offered to volunteers. Initially, the correctional officer on duty made a verbal announcement to the unit regarding the study and asked for volunteers. Subsequently, the researcher approached individual inmates on the pod and asked them if they would like to volunteer for the study. Two participants did not complete the study. One participant that was not asked to participate in the study because he was unable to speak English fluently. A second participant was unable to

complete the testing because he was severely sedated by his medication.

#### *Order of Administration of Measures*

A brief introduction was used to build rapport with each participant. Then, the five measures were administered to each participant in a standardized order. The SADS-C was administered first as an independent measure of the defendant's current psychopathology. The SADS-C was administered first so that results of other measures would not bias the clinician while rating the participant's level of psychopathology. Following the SADS-C, the three competency measures were administered in a counterbalanced order. Counterbalancing these measures reduced the possibility of ordering effects on three closely related competency measures (i.e., the GCCT, MacCAT-CA, and ECST). The SIRS was administered last to each participant because of its structured format. The rationale for administering the SIRS last is that its structure minimizes the chance that previous measures altered the scores on the SIRS.

#### *Duration of Administration*

Interviews took place in a private room on the mental health pod with a closed door. Only the clinician and the defendant were present during the administration of all measures in order to ensure the participants' confidentiality. However, because the room was separated from the pod by windows, the participant and the researcher were in view of those on the pod floor. For some participants, the view of the pod floor seemed to be somewhat of a distraction resulting in slightly longer administration times. Typically, the measures took three hours to administer; however,



some participants were interviewed in less than two hours. Furthermore, a few administration sessions lasted as long as five hours due to excessive verbalization, severe pathology, and necessary breaks. Inmates were allowed to take breaks during the administration of measures and several breaks were required to accommodate the procedures of the correctional system. Breaks from the test administration were needed for (a) smoking (b) bathroom needs (c) eating, and (d) medication, and (e) lock-down.

#### *Inter-rater Reliability*

An independent rater observed 14 complete administrations of the measures in order to obtain estimates of inter-rater reliabilities for each competency measure. Inter-rater reliability estimates were determined for each prong of the *Dusky* standard as well as for the total score on the competency measures.

#### *Classification of Criterion Groups*

All participants included in the competency analyses were screened for feigning with the SIRS. The SIRS has eight primary scales on which the participant can score in the honest range, indeterminate range, probable feigning range, or definite feigning range. According to the test manual, a person should be classified as feigning if he or she scores in the probable or definite feigning range on three or more of the primary scales (Rogers, Bagby, & Dickens, 1992). Employing these criteria, 21 participants were classified as feigners and not included in the majority of analyses.

The remaining participants were classified as incompetent or competent based on their scores on the MacCAT-CA and the GCCT. Participants were classified

as incompetent on the MacCAT-CA if they scored in the "clinically significant impairment" range on any of the three scales (i.e., understanding, appreciation, or reasoning). Participants were classified as incompetent on the GCCT if their total score was less than 70 out of a possible 100. For subsequent analyses, participants were classified as incompetent if they were classified as incompetent on the MacCAT-CA or the GCCT. Likewise, participants were classified as competent only if they scored in the competent range on all scales of the MacCAT-CA and the GCCT.

## CHAPTER 3

### RESULTS

#### Sample Characteristics

All participants (i.e., the total sample) were screened on the Structured Interview of Reported Symptoms (SIRS) and participants that were classified as feigning were excluded from the majority of the analysis involved in this study. The excluded group are referred to as the “feigned sample.” The remaining participants are referred to as the “disordered sample”. Analyses for Research Questions 1-3 included only the disordered sample while Research Question 4 used both the disordered and feigned samples. The descriptive statistics for each sample are provided below.

#### *Total Sample*

The participants had a mean age of 34.75 years ( $SD = 8.81$ ) ranging from 17 to 59 years of age. The average years of education for the total sample was 11.01 years ( $SD = 2.54$ ) with one participant having only a third grade education and 4 participants having a college degree. The racial composition of the sample was 67 (67.0%) Anglo-Americans, 23 (23.0%) African Americans, 6 (6.0%) Hispanic Americans; 4 (4.0%) individuals identified themselves as biracial.

#### *Disordered Sample*

The disordered sample consisted of 79 participants with a mean age of 35.61 ( $SD = 8.63$ ) and mean education level of 11.12 ( $SD = 8.63$ ). Of the 79 individuals included in these analyses, 56 (70.9%) were Caucasian, 16 (20.3%) were African-

American, 6 (7.6%) were Hispanic-American, and one person (1.3%) classified himself as biracial.

#### *Feigned Sample*

The feigned sample consisted of 21 participants. The participants ranged in age from 17 to 53 with a mean age of 31.52 years ( $SD = 8.95$ ). The level of education for the feigned sample ranged from 5<sup>th</sup> grade to college, with an average of 10.58 ( $SD = 2.17$ ) years of education. The racial composition of the feigned sample was 11 (52.4%) Anglo-Americans, 7 (33.3%) African Americans, and 3 (14.3%) individuals who identified themselves as biracial.

#### *Descriptive Statistics for Feigned and Disordered Samples*

Statistical analysis revealed no significant differences between honest responders and feigners on demographic variables such as age, race, and education (see Table 5). Furthermore, chi square analysis was used to determine any pattern of differences between the groups with respect to legal variables such as type of offense and stage in the criminal justice process. No pattern of differences was noted between the groups.

Table 5

*Descriptive Statistics for Demographic and Legal Variables*

Variable	<u>Feigning Group</u>		<u>Honest Group</u>		<i>t</i> or $\chi^2$	<i>p</i>
	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>		
Age	31.52	8.95	35.61	8.63	-1.91	.06
Education	10.58	2.17	11.12	2.63	-.83	.41
Race <sup>a</sup>	NA	NA	NA	NA	2.1	.15
Type of Offense <sup>a</sup>	NA	NA	NA	NA	.01	.94
Stage of Sentencing <sup>a</sup>	NA	NA	NA	NA	.06	.81

*Note.* NA = not applicable.

<sup>a</sup> categorical variable with chi square statistic reported and group means not applicable.

However, feigners and honest responders did score significantly different on three of the four psychopathology subscales as measured by the SADS-C (see Table 6). Specifically, feigners scored higher on the Depression and Psychotic subscales and lower on the Global Assessment Scale (GAS).

Table 6

*Differences on SADS-C Subscales Between Feigners and Honest Responders*

SADS-C Subscale	<u>Feigning Group</u>		<u>Honest Group</u>		<i>t</i>	<u>Cohen's d</u>
	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>		
Depression	41.52	13.28	34.55	10.61	2.53*	.62
Psychotic	19.29	5.78	12.75	4.34	5.71**	1.40
Mania	11.33	6.36	8.52	3.98	1.93	.62
GAS	41.67	9.69	49.13	10.84	2.86**	.70

*Note.* \*significant at the .05 level; \*\*significant at the .01 level

*Criterion Groups*

In the disordered sample, the MacCAT-CA classified 22 participants (27.8%) as incompetent and 57 participants (72.2%) as competent to stand trial. With respect to the individual scales of the MacCAT-CA, the Understanding, Appreciation, and Reasoning scales respectively classified 16.5%, 10.1%, and 19% of the participants as incompetent. The GCCT-MSH classified only 7 participants (8.9%) as incompetent and classified 72 participants (91.1%) as competent. No participants were classified as incompetent on the GCCT without a corresponding classification on the MacCAT-CA. Therefore, the final classification combining the GCCT and the MacCAT-CA was 22 (27.8%) incompetent participants and 57 (72.2%) competent participants.

## Scale Reliability

Interrater reliability was computed for each scale of the three competency measures as well as for the total score. All three competency measures demonstrated excellent inter-rater reliability with correlation coefficients ranging from .94 to 1.0 for the GCCT, from .92 to .99 for the MacCAT-CA, and from .90 to 1.0 for the ECST (see Table 7). Based on these reliability estimates, data on competency measures were considered sufficiently reliable to proceed with Research Questions.

*Table 7*

*Inter-Rater Reliability for the GCCT-MSH, MacCAT-CA, and ECST-R*

Competency Measure	Factual Understanding	Rational Understanding	Ability to Consult with Counsel	Total
GCCT	.99	.95	1.00	.94
MacCAT – CA	.99	.92	.97	.99
ECST	.93	1.00	.93	.90



## Research Question #1

The first research question asked whether there is evidence of convergent and discriminant validity across competency measures for the three prongs of the *Dusky* standard. A multitrait-multimethod matrix (Campbell & Fiske, 1959) was produced to examine the convergent and discriminant validity for each prong of the *Dusky* standard via Pearson product-moment correlations (see Table 8). Using the standards of Fiske and Campbell (1992), the minimally adequate level of convergent validity was .30. As reported in Table 9, modest convergent validity was established for factual understanding (.35). However, adequate convergent validity was not established for the Rational Understanding (.21) and the Ability to Consult with Counsel (.00) prongs of the *Dusky* standard.

Utilizing the criteria established by Bagozzi and Yi (1991), a low level of discriminant validity was found for factual understanding, rational understanding, and ability to consult with counsel (comparison violations = 38.9%, 50.0%, and 77.8% respectively). With respect to factual understanding, there was low discriminant validity overall. However, there was moderate evidence of discriminant validity when comparing the average convergent validity coefficient to the heterotrait-monomethod correlations (comparison violations = 33.3%). Discriminant validity was low with respect to the heterotrait-heteromethod correlation coefficients (comparison violations = 41.6%).

Table 8

Multitrait-Multimethod Matrix for Establishing the Construct Validity of the GCCT, MacCAT-CA, and ECST

	GCCT			MacCAT-CA			ECST		
	Factual	Rational	Assist	Factual	Rational	Assist	Factual	Rational	Assist
<hr/>									
GCCT									
Factual	(.61)								
Rational	.26**	(.58)							
Assist Counsel	.33*	.30*	(NA)						
MacCAT									
Factual	.51*	.39*	.33*	(.82)					
Rational	.39*	.17	.16	.38*	(.76)				
Assist Counsel	.47*	.31*	.14	.69*	.28**	(.76)			
ECST									
Factual	.28**	.50*	.40*	.25**	.07	.31*	(.82)		
Rational	.11	.00	-.13	.09	.46*	.07	-.11	(.73)	
Assist Counsel	-.15	-.09	-.08	-.01	.18	-.07	-.12	.52*	(.82)
<hr/>									

*Note.* Alpha Coefficients (monotrait-monomethod) are the numbers in parentheses on the principal diagonal; For the three prongs of the *Dusky* standard: Factual = factual understanding; Rational = rational understanding; Assist = ability to consult with counsel; NA = not applicable as scale only included one item; \* significant at the .01 level; \*\* significant at the .05 level.

Table 9

Correlation Coefficients for Convergent and Discriminant Validity

<u>Dusky Prong</u>	<u>Convergent Validity</u>	<u>Discriminant Validity</u>		<u>Comparison Violations</u>
		<u>Heterotrait- Monomethod</u>	<u>Heterotrait- Heteromethod</u>	
Factual Understanding	.35	.24	.24	38.9%
Rational Understanding	.21	.27	.17	50.0%
Ability to Consult	.00	.33	.15	77.8%

## Research Question #2

Research Question #2 addressed which of the competency measures had the best construct validity for determining competency to stand trial. Method effects was used to test this research question with systematic comparisons on the GCCT, MacCAT-CA, and the ECST. Table 10 summarizes the convergent validity, discriminant validity, and comparison violations for each competency measure.

### *Convergent Validity*

For factual understanding, the ECST had the lowest convergent validity coefficient ( $r = .27$ ), followed by the MacCAT-CA ( $r = .38$ ) and the GCCT ( $r = .40$ ). For rational understanding, the GCCT had the lowest convergent validity coefficient ( $r = .09$ ) followed by the ECST ( $r = .23$ ) and the MacCAT-CA ( $r = .32$ ). The ECST, MacCAT-CA, and the GCCT all had low convergent validity coefficients ( $r = -.07, .04, .03$  respectively) for the ability to consult with counsel prong.

### *Discriminant Validity*

Utilizing the criteria established by Bogozzzi and Yi (1991), the GCCT demonstrated a moderate level of discriminant validity for factual understanding; however it exhibited a low level of discriminant validity for rational understanding and the ability to consult with counsel. The MacCAT-CA exhibited moderate discriminant validity for factual and rational understanding,

Table 10

Method Effects for the GCCT-MSH, MacCAT-CA, and ECST-R

Measure	<u>Convergent Validity</u>	<u>Discriminant Validity</u>		<u>Comparison Violations</u>
		Heterotrait-Monomethod	Heterotrait-Heteromethod	
GCCT-MSH				
Factual	.40	.30	.21	25.0%
Rational	.09	.30	.28	75.0%
Counsel	.03	.30	.19	100.0%
MacCAT-CA				
Factual	.38	.45	.20	25.0%
Rational	.32	.45	.20	25.0%
Counsel	.04	.45	.29	100.0%
ECST-R				
Factual	.27	.10	.32	75.0%
Rational	.23	.10	.04	0.0%
Counsel	-.07	.10	-.02	25.0%

yet only a low level of discriminant validity for the ability to consult with counsel prong. The ECST-R demonstrated high discriminant validity for the rational understanding prong and moderate discriminant validity for the ability to consult with counsel prong. However, low discriminant validity was established for the factual understanding prong. These data are reported in Table 10.

### Research Question #3

The third research question investigated the relative contributions of psychotic and mood symptoms to the prediction of defendants' competency to stand trial. This question was on criterion groups using sociodemographic and clinical variables to predict competency classification via discriminant analysis.

#### *Levels of Psychopathology in the Criterion Groups*

Competent and Incompetent defendants did not differ significantly on SADS-C depression, mania, or psychotic subscales (see Table 11). However, the incompetent group ( $M = 43.64$ ,  $SD = 11.16$ ) did score significantly lower than the competent group ( $M = 51.25$ ,  $SD = 10.02$ ) on the GAS which is an indicator of overall level of impairment. With GAS scores  $\leq 40$  signifying "major impairment", incompetent defendants were much more likely to score in this range (12 or 54.5%) than their competent counterparts (8 or 14.0%;  $\chi^2 = 13.78$ ,  $p = .000$ ).

Table 11

*Differences on SADS-C Subscales for Competent and Incompetent Defendants*

Subscale	Competent ( <i>n</i> = 57)		Incompetent ( <i>n</i> = 22)		<i>t</i>	<i>d</i>
	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>		
Depression	34.89	10.82	33.62 <sup>a</sup>	11.65	-.47	.12
Psychotic	12.12	3.91	14.36	5.04	1.88	.53
Mania	8.39	3.71	8.86	4.68	.48	.12
GAS	51.25	10.02	43.64	11.16	-2.93*	.74

*Note.* GAS = Global Assessment Scale; \* significant at the .01 level.

<sup>a</sup> Only 21 incompetent participants were included in this analyses due to missing data.

### *Discriminant Analysis*

To further test Research Question 3, the SADS-C subscales were used as predictors of competency in a stepwise discriminant analysis. To test whether these subscales have incremental validity over sociodemographic variables, three analysis were performed: (a) sociodemographic variables only (i.e., age, education), (b) clinical variables only (i.e., subscales of the SADS-C and GAS) and (c) a combination of sociodemographic and clinical variables.

The discriminant function on the sociodemographic variables was statistically nonsignificant (Wilk's lambda = .996;  $p = .591$ ). In contrast, discriminant function analysis on clinical variables only was significant (Wilk's lambda = .83,  $p = .001$ ) and accurately classified 76.9% of the participants (see Table 12). Its utility estimates were PPP = .80, NPP = .62, sensitivity = .91, and specificity = .38. Only two clinical variables entered the function: GAS (canonical correlation = .75) and depression (canonical correlation = .12).

The discriminant function with both clinical and sociodemographic variables (Wilk's lambda = .85,  $p = .002$ ; see Table 12) was comparable to clinical variables alone. The two variables that entered were GAS (Canonical Correlation = .73) and depression (Canonical Correlation = .15). Likewise, utility estimates were similar to clinical variables: PPP = .80; NPP = .67; sensitivity = .93; and specificity = .38. Addition of the sociodemographic variables did not improve classification.



Table 12

*Discriminant Analyses with Clinical and Sociodemographic Variables for the Classification of Competency to Stand Trial*

	<i>n</i>	<u>Predicted Group Membership</u>	
		Competent	Incompetent
<u>Clinical Variables Only</u>			
Competent	57	52 91.2%	5 8.8%
Incompetent	21	13 61.9%	8 38.1%
Canonical correlation of .41; Wilks' lambda of .83, $p = .001$ Overall classification rate of 76.9%			
<u>Clinical and Sociodemographic Variables</u>			
Competent	57	53 93.0%	4 7.0%
Incompetent	20	13 61.9%	8 38.1%
Canonical correlation of .39; Wilks' lambda of .85, $p = .002$ Overall classification rate of 78.2%			

*Note.* Due to missing data, the *n* for the incompetent group is less than the expected 22 participants for these analysis.

#### Research Question #4

Research Question #4 addressed effectiveness of the E-APS and the G-APS as screens for feigning.

#### *Psychometric Properties of the Feigning Screens*

The ECST Atypical Presentation Scale (E-APS) has five subscales: (a) Realistic Problems (e.g., do you wish your lawyer would spend more time with you?), (b) Non-psychotic Symptoms, (c) Psychotic Symptoms, (d) Symptom Selectivity, and (e) Symptom Severity. A total score was also calculated for the E-APS and included in the analysis. The E-APS subscales (see Table 13) showed modest to excellent internal consistency with alpha coefficients ranging from .55 to .92. In addition, the E-APS demonstrated superb reliability with correlation coefficients above .94 for all subscales.

The GCCT-MSH Atypical Presentation Scale (G-APS) demonstrated excellent inter-rater reliability and modest internal consistency. With respect to internal consistency, the G-APS had a Chronbach's alpha of .74. Pearson's product moment correlation coefficient for the G-APS was 1.0 demonstrating excellent inter-rater reliability.

Table 13

*Subscale and Total Score Reliability for the Atypical Presentation Subscales of the ECST-R (E-APS)*

Subscales	$\alpha$	$r$
ECST - Psychotic Symptoms	.76	.94
ECST - Realistic Symptoms	.59	.96
ECST - Non-psychotic Symptoms	.55	.96
ECST - Selectivity	.80	1.00
ECST - Severity	.89	.99
ECST - Total Score	.92	1.00

*Note.* For internal consistency,  $\alpha$  = Chronbach's alpha; For inter-rater reliability,  $r$  = Pearson's product moment correlations.

*Utility of Atypical Presentation Scales as Screens for Feigning*

Feigners scored significantly above honest responders on all scales of the E-APS (see Table14). The only exception was Realistic Problems subscale that was comprised primarily of filler items to reduce the transparency of the E-APS. All other scales on the E-APS demonstrated strong effect sizes.

Table 14

*Mean Difference Statistics for the Atypical Presentation Scales on the ECST*

Scale	<u>Feigning Group</u>		<u>Honest Group</u>		<i>t</i>	Cohen's <i>d</i>
	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>		
ECST - Realistic Problems	13.14	2.63	11.72	3.24	1.85	.46
ECST - Psychotic symptoms	5.67	3.98	1.78	2.16	4.31*	1.47
ECST - Nonpsychotic symptoms	4.48	2.86	1.81	1.99	4.94*	1.21
ECST - Severity of symptoms	8.76	6.09	4.37	4.23	3.11*	.94
ECST - Selectivity of symptoms	14.00	4.06	9.24	3.16	5.77*	1.42
ECST - Total Score	42.80	19.74	25.87	13.86	4.43*	1.11

*Note.* \*significant at the .01 level

On the G-APS, feigners scored significantly higher than honest responders ( $t = 3.62, p < .01$ ). On average, feigners scored 5.10 ( $SD = 4.01$ ) while honest responders averaged 1.77 ( $SD = 2.49$ ). The effect size for the G-APS was robust ( $d = 1.16$ ).

Utility estimates were obtained for each scale by using cut scores that maximized NPP (i.e.,  $\geq .80$ ) and sensitivity (i.e.,  $\geq .50$ ). These estimates are most important because a screen should have moderate accuracy at identifying potential feigners (sensitivity) and miss very few people that are feigning (NPP). Optimal cut scores and corresponding utility estimates for each of the Atypical Presentation Scales of the E-APS and the G-APS are presented in Table 15. All E-APS scales demonstrated excellent NPP with all coefficients higher than .85. Sensitivity of the E-APS scales ranged from moderate (.52) to excellent (.80).

The optimal cut score for the G-APS was  $\geq 3$ . This cut score is markedly different from the cut score of  $\geq 6$  recommended by Gothard et al. (1995). The current cut score resulted in excellent NPP (.92) and modest sensitivity (.76). The utility estimates for the G-APS can be found in Table 15.

*Table 15*

*Utility Estimates for the G-APS and E-APS Subscales*

Scale	Cut	Sensitivity	Specificity	PPP	NPP	Hit rate
G-APS	3	.76	.77	.47	.92	.79
E-APS- Psychotic	5	.52	.95	.73	.87	.86
E-APS- Nonpsychotic	4	.67	.81	.48	.90	.78
E-APS- Realistic	13	.62	.57	.28	.85	.58
E-APS- Selectivity	11	.76	.68	.39	.92	.70
E-APS- Severity	5	.71	.57	.31	.88	.60
E-APS- Total Score	28	.80	.60	.34	.92	.62

*Note.* Cut = Cut Score (numbers  $\geq$  signify feigning);  
PPP = Positive Predictive Power, NPP = Negative Predictive Power.

## CHAPTER 4

### DISCUSSION

Over the past four decades, the Supreme Court has consistently upheld the *Dusky* standard with only minor elaborations as the substantive standard for establishing competency to stand trial. During this time, psychologists have become considerably more involved in the assessment of competency to stand trial. To this end, several forensic measures assessing defendants' competency have been developed. However, research is generally lacking support for the construct validity of these competency measures as they pertain to *Dusky*.

This chapter reviews the current results regarding the construct validity of three recent competency measures in relationship to past studies. In addition, current findings regarding the relationship between psychopathology and competency are discussed. The chapter also offers an analysis of available methods of screening defendants for feigning in light of the current data.

#### Construct Validity of the Dusky Standard

##### Standardization vs. Relevance

A main issue regarding the use of forensic measures in competency evaluations is the conflict between standardization and relevance to the legal standard. Some professionals advocate the use of standardized forensic measures (Matarazzo, 1990), while some professionals doubt their relevance to the legal standard (Faust & Ziskin, 1988). This conflict is evident in that mental health professionals differ in their views on the utility of forensic measures in evaluations of competency to stand trial. Borum and Grisso (1995) found that only 36% of forensic psychologists reported almost always

using forensic measures while a comparable percentage reported never using them.

Compounding the debate among psychologists is the lack of substantial research demonstrating the validity of such measures in relation to the *Dusky* standard. A systematic analysis of current competency measures as they pertain to *Dusky* is warranted. Research supporting the legal relevance of these forensic measures will facilitate the resolution of the conflict between standardization and relevance. Furthermore, such research may encourage more forensic psychologists to employ forensic measures in competency to stand trial (CST) assessments.

#### Operationally Defining *Dusky*

Debate over the conceptualization of *Dusky* likely contributed to the lack of substantial research on the construct validity of CST measures. As described in the Introduction, several conceptualizations of the *Dusky* standard are proposed by mental health professionals and legal scholars (Melton et al., 1997; Otto et al., 1998; Rogers & Grandjean, 2000; Shuman, 1996). Although clinicians and lawyers agree that *Dusky* requires an evaluation of the defendant's current capacities, debate continues over how to operationally define those capacities with respect to the basic components (i.e., prongs) of *Dusky*. However, most clinicians utilize a three-prong standard for competency (i.e., factual understanding, rational understanding, and ability to consult with counsel). Therefore, this study examines the construct validity based on the three-prong conceptualization.

#### Convergent and Discriminant Validity of the Three Prongs of *Dusky*

The multitrait-multimethod design utilized in the current study provided a theoretically based, systematic method for evaluating the construct validity of current

competency measures as they pertain to the three prongs of *Dusky*. Modest construct validity was found for factual understanding, however, statistical analysis failed to establish construct validity for rational understanding or ability to consult with counsel. These negative findings were disheartening on several levels. In general terms, modern CST measures failed to adequately address 2 of the 3 prongs of *Dusky*. More specifically, these capacities that are unmistakably crucial to a defendant (e.g., ability to consult with counsel) were not sufficiently validated. According to Bonnie (1992), it “would undermine society’s independent interest in the reliability of its criminal process . . . to proceed against a defendant who lacks the capacity to recognize and communicate relevant information to his or her attorney. . .” (p. 295). It could be argued that trusting one’s attorney may be the most important capacity for a defendant to possess as his attorney is his or her established link to courtroom proceedings. However, the current results suggest that current competency measures do not address this prong of *Dusky*.

A second prong of *Dusky*, not adequately validated is “rational understanding”. The vital necessity for a defendant’s rational understanding is evident by the gravity of the trial situation and the defendant’s needed input. A defendant lacking rational understanding would not be engaged in the proceedings meaningfully and thus not contributing to his or her own defense. An attorney would be challenged to provide proper defense to a disengaged defendant that cannot rationally grasp the finality of judicial process.

#### *Validity of Factual Understanding Prong*

Factual understanding demonstrated modest construct validity in the current



study. Statistically, it was the only prong of the *Dusky* standard with an average convergent validity coefficient that exceeded the discriminant validity coefficients. In the following paragraphs, three reasons are explored for the discrepancy in construct validity between factual understanding and the other two prongs of *Dusky*.

First, factual understanding of the proceedings (e.g., knowing the roles of individuals in the courtroom) lends itself to clearer methods of assessing than the other prongs of the *Dusky* standard because the information can be elicited via face-valid items (e.g., What does the judge do?). In contrast, rational understanding (e.g., comprehending the gravity of one's position in the proceedings) and ability to consult with counsel (e.g., trusting one's attorney) are more difficult to assess. These prongs assess the defendant's internal belief system and not merely his or her level of acquired information regarding the legal process. Internal belief systems are not as easily elicited from face-valid items, such as a defendant's factual knowledge. The similarity of items across measures for assessing factual understanding provides evidence of this argument.

A second reason is that rational understanding and ability to consult with counsel typically involve case-specific information about the individual case and a particular defense counsel. Unlike factual understanding, the information that needs to be elicited to assess the other two prongs varies with each individual defendant. As a result, the competency measures take different approaches when eliciting this information. As an example concerning the ability to consult with counsel prong, the ECST-R asks specific questions regarding different aspects of the defendant's relationship with his or her attorney. On the other hand, the MacCAT-CA does not focus on the defendant's

personal relationship with his own attorney. Instead, it elicits the defendant's opinions regarding a hypothetical defendant and his or her decisions while communicating with the hypothetical attorney (see Table 16). Finally, the GCCT only includes one item that could elicit issues of potential mistrust in one's attorney (i.e., How can you help your lawyer defend you?). This heterogeneity in the assessment of ability to consult with counsel may explain the poor convergence across measures in establishing construct validity.

*Table 16*  
*Methods Used by CST Measures to Assess Rational Understanding and Ability to Consult with Counsel Prongs of Dusky*

CST Measure	Methods used to assess rational understanding prong	Methods used to assess ability to consult with counsel prong
GCCT	2 items addressing nature of charge and possible consequences	1 item: "How could you help your attorney defend you?"
MacCAT-CA	6 items requiring defendant to compare his position to other defendants in legal system	8 items pertaining to hypothetical case and assumed relationship to an attorney
ECST	10 questions addressing ability to make decisions	15 items regarding nature of client-attorney relationship

A third explanation for the failure of CST measures to establish good construct validity is that rational understanding and consult with counsel are closely related. Both

require rational abilities. Evidence of their closely related abilities is provided by each measure's significant heterotrait-monomethod correlation coefficients. For example, the MacCAT-CA's factual understanding scale was correlated with its rational understanding scale ( $r = .38$ ) and its ability to consult with counsel scale ( $r = .69$ ). The interdependence of scales within a measure makes it difficult to establish good discriminant validity as the heterotrait-monomethod correlation coefficients will be high. The presence of closely related constructs contributed to the failure in establishing construct validity.

In summary, construct validity was not established for the "rational understanding" and "ability to consult with counsel" prongs of *Dusky*. Explanations for this failure includes the heterogeneity of methods for assessing rational understanding and consult-with-counsel prongs. Furthermore, the high inter-scale correlations between these prongs mitigate against construct validity via the MTMM research design.

#### Implications for Competency to Stand Trial Evaluations

Evidence of modest construct validity for factual understanding and failure to establish construct validity for the other two prongs of *Dusky* suggest the need for an alternative method of assessing competency. Specifically, results of this study suggest that modern CST measures are useful in making determinations of competency that are relevant to factual understanding, but not to the other prongs of the *Dusky*.

An initial assessment of factual understanding is suggested. It could be completed in a brief amount of time as CST measures do an adequate job of identifying incompetency on this prong. If a defendant was found to be incompetent with respect

to factual understanding, he or she is incompetent overall as the prongs of *Dusky* are interrelated and conjunctive (Shuman, 1994). If a defendant has adequate factual understanding, the mental health professional would need to further assess to establish rational understanding and ability to consult with counsel. Clinicians are urged to conduct an indepth evaluation with probes and open-ended questions. Because construct validity was not established for these two prongs, standardization may need to be sacrificed in lieu of adherence to the legal standard.

#### Reliability and Validity of Modern Competency Measures

This section will address the psychometric properties of each measure investigated in this study with respect to the other measures. Please refer to Table 17 for a comprehensive comparison of these measures.

Table 17

*Summary of Psychometric Properties of Competency Measures Investigated*

	# of items	Inter-rater Reliability	Internal Consistency	Convergent Validity	Discriminant Validity
GCCT					
Factual	14	.99	.61	.40	moderate
Rational	2	.95	.58	.09	low
Assist	1	1.00	NA	.03	low
MacCAT-CA					
Factual	8	.99	.82	.38	moderate
Rational	6	.92	.76	.32	moderate
Assist	8	.97	.76	.04	low
ECST-R					
Factual	15	.93	.82	.27	low
Rational	10	1.00	.73	.23	high
Assist	15	.93	.82	-.07	moderate

### Internal Consistency

The internal consistency of each scale corresponding to *Dusky* were examined for all three measures. As alpha coefficients should be considered with respect to the number of items on each scale, both of these estimates are presented in Table 17. On the GCCT, modest alpha coefficients were found for factual and rational understanding. However, the rational understanding scale was comprised of only two items, thus limiting estimates of internal consistency. Furthermore, scale reliability estimates were not applicable for ability to consult- with-counsel scale of the GCCT because only one item comprised the scale.

All scales of the MacCAT-CA and ECST-R demonstrated modest to good internal reliability (see Table 17). These internal consistency estimates were examined with respect to the number of items on each scale. Reliability estimates for rational understanding were lower than for the other two scales. With respect to the MacCAT-CA, this may be the result of the hypothetical basis of the factual understanding and ability to consult with counsel prongs. As these scales are not case-specific and thus not representative of *Dusky*, the internal consistency of these scales may be artificially inflated with respect to competency.

### *Inter-rater Reliability*

Excellent inter-rater reliability was demonstrated for all three measures with correlation coefficients  $\geq .90$ . Inter-rater reliability estimates were computed separately for each prong of *Dusky* as well as for the measures total score (see Table 17).

### *Construct Validity*

With respect to construct validity, the GCCT performed worse than the other two competency measures. Construct validity was not established for two of the three scales through either inspection of face validity or systematic comparisons with the other measures. With respect to the other measures, adequate convergent validity and discriminant validity was established for factual understanding. However, the multitrait-multimethod design failed to establish adequate construct validity for rational understanding or the ability to consult with counsel prongs of *Dusky*. This result is not surprising due to the limited number of items included in these two scales. As the GCCT does not have standardized subscales that correspond to *Dusky*, subscales were created via a face-valid assessment of items. However, with respect to rational understanding, only two items adequately addressed the issues suggested by *Dusky*. Furthermore, only one item addressed the defendant's ability to consult with counsel.

Construct validity of the MacCAT-CA and ECST-R differed considerably by scale. With respect to factual understanding, the MacCAT-CA was similar to the GCCT in that adequate convergent validity was established and a moderate level of discriminant validity. The ECST-R did not perform as well as the other measures on factual understanding because (a) its convergent validity coefficient was significantly lower than other measures and (b) low discriminant validity was established.

The ECST-R performed significantly better than the other two measures with respect to the "consult-with-counsel" prong. Although convergent validity coefficients were low for all three measures, the ECST-R had significantly lower discriminant validity

coefficients. Comparison violation analysis revealed a moderate level of discriminant validity for the ECST-R as contrasted with low discriminant validity for the other two measures.

The ECST-R also performed better than the other two measures with respect to rational understanding. As previously stated the GCCT had low convergent and discriminant validity for rational understanding; it performed worse than the ECST-R and MacCAT-CA. With respect to convergent validity, the MacCAT-CA performed slightly better than the ECST-R (.32 vs. .23). However, the ECST-R had high discriminant validity while the MacCAT-CA had only moderate discriminant validity. The ECST-R's heterotrait-mononmethod correlation coefficients were low as were it heterotrait-heteromethod correlation coefficients. As discussed in the next section, the MacCAT-CA's heterotrait-monomethod correlation coefficients were too high to demonstrate good discriminant validity (refer to Table 9 for convergent and discriminant validity coefficients).

#### *Inter-Scale Correlations*

One problem with establishing the construct validity of these measures was the significant intercorrelations between scales within measures (i.e., heterotrait-monomethod correlations). This problem was especially true for the GCCT and the MacCAT-CA. For example, all three scales of the GCCT evidenced significant intercorrelations. This finding suggests that the GCCT is assessing one rather than three separate dimensions of competency.

#### *MacCAT-CA*



Construct validity was difficult to establish for the MacCAT-CA due to its moderately high heterotrait-monomethod correlation coefficients. Specifically, the MacCAT-CA had a high average heterotrait-monomethod correlation coefficient ( $r = .45$ ) which resulted in poor discriminant validity. Poor construct validity resulted as this discriminant validity coefficient exceeded the average convergent correlation coefficients for each prong of the *Dusky* standard. The high heterotrait-monomethod correlation is primarily the result of the high correlation ( $r = .69$ ) between factual understanding (i.e., Understanding Scale) and ability to consult with counsel (i.e., Reasoning Scale). These two prongs are assessed via a hypothetical story while the third prong is not. This finding suggests that the MacCAT-CA may be measuring two independent capacities: (a) the defendant's ability to think abstractly and (b) rational understanding. Furthermore, the reliance of the MacCAT-CA on a hypothetical story contradicts the basic notion of *Dusky* that assessment of a defendant's psycholegal abilities be case-specific.

#### *ECST-R*

Of the three competency measures that were investigated, the ECST-R demonstrated the lowest intercorrelations ( $r = .10$ ) among the three scales assessing the three prongs of the *Dusky* standard. Low heterotrait-monomethod correlation coefficients suggest that the ECST-R has excellent discriminant validity with respect to its own scales. This low correlation coefficient greatly contributed to the success of ECST-R at assessing rational understanding (comparison violation = 0%) and ability to consult-with-counsel (comparison violation = 25.0%). Opposed to the other measures

investigated, the ECST was developed specifically so that it would be relevant to *Dusky*. Results of this study support the construct validity of two prongs of the *Dusky* standard that had previously been neglected in the literature. Although low convergent validity was found with respect to the other measures, the implications of this finding is unclear as the previously discussed measures did not exhibit good construct validity.

### Relationship Between Competency and Psychopathology

#### Importance of Psychopathology in Competency Recommendations

Incompetency rarely occurs without the presence of either a diagnosis of psychosis or evidence of severe impairment due to organic mental disorder or mental retardation (Golding, 1992). Results of this study indicated that approximately 75% of the defendants could be accurately classified as competent or incompetent based on clinical variables alone. These findings suggest that comprehensive competency evaluations must include an assessment of psychopathology in addition to psycholegal abilities. Furthermore, it is necessary for clinicians to understand the contributing factors to incompetency in order to make qualified determinations of competency.

#### Prediction of Competency Using Sociodemographic Variables

Ustad et al. (1996) established that socio-demographic variables, such as age and race, were not correlated with competency decisions as determined the GCCT-MSH. Furthermore, Hart and Hare (1992) found no evidence of a race or age bias in decisions of competency. Results of this study are consistent with past research in that sociodemographic (i.e., age race, education) variables did not accurately predict competency. Furthermore legal variables (e.g., type of crime) was not related to

competency as well.

#### Prediction of Competency Using Clinical Variables

Nicholson and Kugler (1991) reviewed 30 studies on CST and established two clinical categories that consistently predict competency: (a) a diagnosis of psychosis and (b) psychiatric symptoms reflective of severe psychopathology. Results of the current discriminant analyses support the findings of Nicholson and Kugler. The current discriminant analysis included three clinical scales (i.e., psychosis, depression, and mania) from the SADS-C. They established psychotic symptoms as the best predictor of competency with an overall classification rate of 70.9%. This finding is consistent with past research (Hart & Hare, 1992; Nicholson & Kugler, 1991; Ustad et al., 1996).

Overall impairment due to psychopathology is the key factor in predicting incompetency. When functional impairment (as measured by the GAS of the SADS-C) was added to the discriminant analysis, it became the strongest predictor of competency. Psychosis and depression contributed to the prediction of incompetency as well. Interestingly, the GAS was significantly correlated with both psychosis ( $r = -.57$ ) and depression ( $r = -.52$ ). This finding suggests that it is the impairment rather than the specific disorder is important in determining competency. This finding is consistent with the conclusions of Nicholson and Kugler (1991) that “severe psychopathology” plays a key role in determining competency.

In addition to results of the discriminant analyses, t tests (see Table 11) indicate that functional impairment is the key in differentiating between competent and incompetent defendants. Group differences were established for GAS, but not for any

clinical scale. With respect to predicting competency, Ustad et al. (1996) concluded that the combination of a defendant's low IQ and the presence of a severe mental disorder best predicts incompetency. As this combination of factors would undoubtedly adversely affect a defendant's level of functioning, current results appear to be consistent with those of Ustad et al.

### *Implications for the Assessment of Competency*

Results of this study lend credence to the recommendations of Hart and Hare (1992) regarding a change in the method of assessing competency. Specifically, perhaps a first step in competency evaluations is to screen for psychosis. Research consistently demonstrates psychotic symptoms as a predictor of competency. Furthermore, research suggests that few nonpsychotic defendants are also found incompetent to stand trial. Although the diagnosis of psychotic symptoms would not suffice for a decision of competency, a brief competency screen could then be administered to nonpsychotic defendants. For psychotic defendants, a more indepth assessment of impaired competency due to psychosis would be warranted. As the ECST has more items addressing these issues, this measure is strongly recommended for psychotic defendants. Although assessing for psychotic symptoms is recommended, clinicians are reminded that psychosis or other psychopathology does not equate with incompetency (Golding, 1992).

### Feigning and Competency Measures

#### Importance of Assessing for Feigning Incompetency

"Criminals may seek to . . . avoid punishment by feigning incompetency to stand

trial” (Resnick, 1997. p. 48). Therefore, assessing for feigned incompetence is a necessary component of any comprehensive CST evaluation. This requirement was evident in the current study as approximately 20% of the total sample was classified as feigning on the SIRS. This proportion is slightly higher than Gothard et al. (1995), who estimated 12.7% of CST defendants were feigning. However, it buttresses the notion that a significant minority of defendants will attempt to malingering.

#### Psychometric Properties of Atypical Presentation Scales

##### *Reliability*

The internal reliability of the atypical presentation scales was investigated by a comparison of alpha coefficients between feigners, nonfeigners, and the total sample. As expected, internal consistency was higher with honest responders than with feigners on the Realistic Problems subscale. However, on all other E-APS subscales, internal consistency was higher with feigners than honest responders. Lower Cronbach’s alphas for honest responders may be due to the limited range in their responses. Overall, scale reliability was moderate to good for all of the atypical presentation scales (see Table 13).

##### *Validity*

As expected, feigners scored "worse" on the atypical presentation scales (i.e., the five E-APS subscales and one G-APS scale). The one exception was the Realistic Problems Scale of the E-APS. However, the purpose of this scale was to add filler items to reduce the transparency of the E-APS rather than assist in the classification of feigning. In order to establish criterion-related validity, each atypical presentation scale

was examined against the feigning category established by the SIRS. Utility estimates are necessary in order to examine each measure's accuracy at approximating the diagnostic standard. The following section offers a discussion of each measure with respect to its utility estimates.

### Clinical Applicability of Atypical Presentation Scales of CST Measures

#### *GCCT*

The G-APS was designed as a brief screen. The scale includes only 8 items that can be administered in less than two minutes. As a screen, the primary objective is to identify potential feigners. For this purpose, the pre-eminent concern is not miss cases where feigning actually occurred (i.e., NPP). The G-APS had an overall hit rate of .79. The G-APS accurately classified three-fourths of feigners (sensitivity = .76). Most importantly, its cut score missed very few feigners (i.e., 8.0%; NPP = .92).

Although the utility of the G-APS as a screen for feigning was previously established by Gothard (1995), that study utilized a very different cut score than the present study. Gothard et al. accurately classified approximately 90% of their sample with a cut score  $\geq 6$ . In the present study a cut score of  $\geq 3$  was employed to achieve a classification rate of 79%. The research design differences in these two studies may account for this discrepancy. Specifically, Gothard et al. utilized a simulation design while the current study was a known-groups comparison. Known-groups comparisons involve an evaluation of response styles under real-world conditions and thus have more external validity than simulation designs (Rogers & Cruise, 1988). The previously established cut score ( $\geq 6$ ) appears too stringent for the current study. Psychologists are

encouraged to utilize a lower cut score that will result in the classification of more defendants as potentially feigning. This is ideal as the purpose of the G-APS is solely to screen defendants for feigning and is not intended to be used as the sole basis for classification of malingering.

### *ECST*

Compared to the G-APS, the E-APS is much more sophisticated. Specifically, the E-APS consists of 6 subscales and employs four detection strategies as outlined by Rogers (1997). The present study is the first systematic evaluation of the E-APS scale with the SIRS as a gold standard for feigning. The overall scale demonstrated excellent promise as a screen for feigned incompetence. The E-APS had high accuracy when it classified a defendant as responding honestly (NPP = .92). Furthermore, the E-APS was generally accurate when identifying feigners (sensitivity = .80).

As cut scores were established with maximizing negative predictive power and sensitivity, each subscale of the E-APS employed a different cut score (see Table 14). Each subscale of the E-APS demonstrated good to excellent NPP. With respect to sensitivity, utility estimates ranged from moderate (.52 on psychotic symptoms scale) to good (.80 for total score). As the total score demonstrated the highest NPP and sensitivity, its use is recommended as a screen for feigning. However, the overall hit rate was only moderate (.62). As a supplementary approach, the Psychotic Symptoms Scale of the E-APS is recommended. The overall hit rate was highest for the E-APS Psychotic Symptoms Scale demonstrating its utility as a screening for feigning. Although it is recommended that these scales be included in any competency

evaluation, the E-APS should not be used to make final judgements regarding feigning.

### Strengths and Limitations of the Study

#### Methodological Considerations

A multi-trait multi-method design (Campbell & Fiske, 1959) was employed to investigate construct validity of competency to stand trial. This design requires different methods of eliciting multiple constructs. This research design is limited in the present study because of the lack of distinct “methods”. All measures investigated are semi-structured interviews. Despite this limitation, the model presented by Campbell and Fiske (1959) seemed to provide the clearest method of assessing construct validity with the present sample.

A further complication to the multitrait-multimethod design was the content of the measures themselves. The scales of two measures did not adequately address the *Dusky* standard. Specifically, the GCCT does not have subscales corresponding to *Dusky*. As mentioned previously, development of these scales was limited by the low number of items addressing rational understanding and ability to consult with counsel. With respect to the MacCAT-CA, two of its scales pertained to a hypothetical vignette rather than the defendant’s case. This use of hypotheticals is inconsistent with *Dusky*’s requirement about capacities involving the defendant’s case.

An investigation of construct validity requires good scale reliability and discriminant validity between scales within a measure. Although the scales of the ECST-R and MacCAT-CA demonstrated excellent internal consistency, two scales of the GCCT did not have good internal consistency. Furthermore, high intercorrelation



among scales on the MacCAT-CA resulted in poor discriminant validity for that measure and jeopardized the construct validity of the other measures.

#### Areas for Future Research

More research on the utility of competency measures and their relevance to *Dusky* is needed. This study is the first to systematically evaluate their relevance to the legal standard. To ensure a theory-based approach, studies involving the assessment of any forensic issue should focus on the legal standard. In addition to construct validity, competency studies must also focus on criterion-related validity. Several limitations of criterion-related validity are present for competency evaluations. With CST assessments, identifying an objective “gold standard” for competency is difficult. Practitioners who make clinical decisions of competency often have access to competency measures thus confounding the results through criterion contamination. Independent research by clinicians not involved in actual competency evaluations would circumvent this problem.

Prior research (Hare & Hart, 1992; Ustad et al., 1996) has demonstrated a relationship between cognitive functioning and competency to stand trial. The present study did not investigate the importance of neuropsychological functioning deficits and cognitive abilities in the prediction of competency. As low intelligence is disproportionately high in the penal system (Nicholson & Johnson, 1991), its impact on a person's capacities, as outlined by *Dusky* needs to be investigated.

#### Conclusions

Current results indicate that modern competency measures tend to assess for

one prong of *Dusky* (i.e., factual understanding) better than the other prongs. However, two newer measures demonstrate some utility in assessing for the other prongs. Specifically, the MacCAT-CA shows promise in adequately assessing for rational understanding. The ECST-R appears effective at assessing a defendant's ability to consult with counsel. As no measure demonstrated excellence in assessing for each prong of *Dusky*, a CST evaluation including multiple competency measures is recommended. The following paragraphs address conclusions regarding each of the measures examined.

#### *GCCT*

In general, the GCCT lacks direct relevance to the psycholegal capabilities outlined in *Dusky*. However, the GCCT's total score has demonstrated moderate to excellent internal reliability (Ustad et al., 1996), excellent inter-rater reliability (Nicholson, 1992), and good criterion-related validity (Nicholson et al., 1988). Furthermore, results of this study indicate that the GCCT does an adequate job of assessing for factual understanding and feigned incompetency. Therefore, it is suggested that the GCCT be utilized as a screening measure for the initial assessment of competency to stand trial and feigning. Clinicians are encouraged to supplement the GCCT with additional methods of assessing the defendant's rational understanding and ability to consult with counsel.

#### *MacCAT-CA*

As two of the MacCAT-CA's sections are reliant on a hypothetical court case, it seems that those portions do not adequately assess the psycholegal abilities outlined in

*Dusky*. It tests the defendant's memory for details irrelevant to his or her own situation. It also attempts to equate the ability to think abstractly with his or her actual capabilities to assist in his or her own defense. The strength of the MacCAT-CA lies in the assessment of rational understanding. That is, the Appreciation Scale on the MacCAT-CA requires the defendant to make comparative judgements regarding his or her own legal situation and assesses their appreciation of possible consequences. In sum, the MacCAT-CA shows promise as a tool for assessing rational understanding, but it is recommended that clinicians augment their evaluations with case specific questions regarding the nature of the attorney-client relationship.

#### *ECST-R*

The ECST-R demonstrated strong promise for a competency measure as it focuses on the relevant legal standard, has the capacity to assess for the defendant's ability to learn, and can effectively screen for feigning. The ECST's demonstration of discriminant validity is in sharp contrast to past CST measures as well as the other measures investigated in this study. The ECST performed better than the other measures in the current study because of its focus on case-specific questions and pertinent issues of psychopathology (e.g., psychosis).

#### *Psychopathology and Competency*

Consistent with prior research, certain clinical variables consistently predict competency classifications. Specifically, clinicians should focus on psychotic symptoms and the level of overall impairment due to psychopathology. Although this study did not address intellectual functioning, intelligence undoubtedly affects functional impairment.

It is therefore recommended that clinicians assess for cognitive deficits when making determinations of CST.

### *Feigning Incompetency*

Defendants may be tempted to feign disorders in order to be found incompetent to stand trial (Rogers, 1997). Results indicate that both the G-APS and the E-APS have considerable promise in screening for feigned incompetency. Final assessments of feigning should not rely on these scales alone. However, they could easily be incorporated into any forensic evaluation as they both take less than 5 minutes to administer. It is therefore recommended that these scales be employed when completing any CST evaluation.

APPENDIX A

DESCRIPTION OF DEMOGRAPHIC AND LEGAL VARIABLES FOR  
FEIGNING AND HONEST GROUP

Frequency of Demographic and Legal Variables for  
the Feigning and Honest Group

Variable Categories	Feigning Group <i>n</i> = 21	Honest Group <i>n</i> = 79
<hr/>		
Race		
Caucasian American	11 (52.4%)	56 (70.9%)
African American	7 (33.3%)	16 (20.3%)
Hispanic American	0 (00.0%)	6 (7.6%)
Bi-racial	3 (14.3%)	1 (1.3%)
Type of Offense		
Violent Crimes	8 (38.1%)	32 (40.5%)
Non-violent Crimes	13 (61.9%)	46 (58.2%)
Stage of Sentencing		
not yet sentenced	12 (57.1%)	50 (63.3%)
already sentenced	6 (28.6%)	26 (32.9%)

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